

BEFORE THE DIRECTOR  
OF THE  
OFFICE OF CAMPAIGN FINANCE  
D. C. BOARD OF ELECTIONS AND ETHICS  
2000 14TH STREET, N. W., SUITE 420  
WASHINGTON, D. C. 20009  
(202) 671-0550

IN THE MATTER OF

**Wilma Harvey**  
**Ward One Member and President**  
**D. C. Board of Education**

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DATE: November 26, 1999

DOCKET NO.: PI 1999-105

**ORDER**

**Statement of the Case**

This matter arises out of a complaint filed by Westy Byrd, Ward 2 Member of the D. C. Board of Education, 4525 Clark Place, N. W., Washington, D. C., 20007 against Wilma Harvey, Ward One Member and President, D. C. Board of Education, 1830 16<sup>th</sup> Street, N. W., No. 1, Washington, D. C., 20009, alleging violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D. C. Code §§1-1401 et seq. (the Act), and the D. C. personnel regulations at Chapter 18, "Employee Conduct," 40 DCR 8358 (1993) (Standards of Conduct). Ms. Byrd alleges that Ms. Harvey misused government property and resources.<sup>1</sup> She specifically alleges that a Board of Education (BOE) employee was performing personal work for Ms. Harvey during BOE business hours.<sup>2</sup>

**Issue**

Whether Ms. Harvey engaged in any activity which was not compatible with the full and proper discharge of her duties and responsibilities as a government employee, pursuant to §1804 of the Standards of Conduct, when she allegedly used BOE staff and resources, during BOE business hours, for personal purposes.

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<sup>1</sup> Upon evaluation by the Office of Campaign Finance (OCF) of Ms. Byrd's complaint, it was decided that the statutory bases for the resolution of this matter were solely within the Standards of Conduct. In other words, Ms. Byrd did not make a complaint, nor could OCF originate a complaint based upon the allegations herein, against Ms. Harvey, the determination of which would be based in the Act.

<sup>2</sup> Ms. Byrd subsequently withdrew her complaint on August 13, 1999. A complainant's withdrawal of a complaint does not affect the authority of the Director of OCF to investigate or dismiss a matter. According to 3 D.C.M.R. §3705.1 (1999), "The Director may dismiss any case administratively under the following circumstances: (a) [I]f insufficient evidence exists to support a violation; or (b) [u]pon stipulations of the parties." Lacking stipulations, OCF sought to determine whether there was any evidence to support the alleged violations.

## **Background**

On July 12, 1999, Westy Byrd complained to OCF that Wilma Harvey was using BOE staff and resources to perform personal work during BOE business hours. Upon review of the complaint, OCF initiated a preliminary investigation into this matter. See Attachment A.

On July 16, 1999, OCF sent letters to Westy Byrd, Wilma Harvey and various witnesses cited in Ms. Byrd's complaint, to advise that OCF had commenced a preliminary investigation, and to request any information relevant to the matter by July 30, 1999. Ms. Harvey requested and was granted 2 extensions of time in which to reply to the allegations. Ms. Harvey submitted her response to OCF on September 1, 1999. See Attachment B. However, prior thereto, Ms. Byrd withdrew her complaint. See Attachment C.

The scope of the OCF investigation encompassed reviewing and evaluating all submitted information, in light of the OCF statute, and OCF and personnel regulations; research; and in-house meetings.

## **Relevant Statutory and Regulatory Provisions<sup>3</sup>**

At §1801.1, it reads, “[v]iolation of these regulations by an employee may result in remedial action which may be in addition to any penalty prescribed by law.”

At §1801.2, it reads, in part, “When, after consideration of the explanation of the employee, the Board of Elections and Ethics. . .decides that remedial action is required regarding any matter covered under this chapter, appropriate action shall be immediately taken or ordered. Remedial action may include, but shall not be limited to, the following:

- “(a) Changes in assigned duties;
- “(b) Divestment by the employee of his or her conflicting interest;
- “(c) Corrective or adverse action pursuant to D. C. Code §1-617.1(d) (1981); or
- “(d) Disqualification for a particular assignment.”

At §1804.1, it reads, “An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:

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“(b) Using government time or resources for other than official business, or government approved or sponsored activities[; and]

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<sup>3</sup> Ms. Byrd cited various sections of the Standards of Conduct as bases for her allegations. Sections 1800, 1802.1(a), and 1803.1(a) & (f) are for general purposes of applicability and policy, and are not therefore actionable; and, there was nothing in the allegations to support violations of §§1804.1(a), (g) & (i). See Standards of Conduct.

“(c ) Ordering, directing or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official D. C. government functions and activities[.]”

At §1806.1, it reads, in part: “A District employee shall not use or permit the use of government property, equipment, material of any kind, including that acquired through lease, for other than officially approved purposes.”

### **Summary of Evidence**

In support of her complaint, Ms. Byrd submits her verified affidavit. Ms. Harvey relies upon her notarized response.

### **Findings of Fact**

Having reviewed the allegations and respondent's answers, I find:

1. Wilma Harvey is an employee of the District of Columbia. See Attachment A (AA) at paragraph (para.) 2.
2. On June 25, 1999, Ms. Harvey was at her place of business on 825 North Capitol Street, N. E., Washington, D. C., 20002, during business hours. AA at paras. 5-6; see also Attachment B (AB) at para. 5.
3. On June 25, 1999, Ms. Harvey directed a BOE staff person to compile material for Ms. Harvey, during business hours, regarding sights and attractions, and the Island of Martha's Vineyard, in Massachusetts. AB at paras. 6-9; see also AA at para. 9.
4. The information regarding the sights and attractions, and the Island of Martha's Vineyard, in Massachusetts was for Ms. Harvey's personal use. AB at para. 8.
5. On June 25, 1999, the BOE staff person utilized the BOE computer, printer and copier to prepare Ms. Harvey's material. Id.

### **Conclusions of Law**

Based upon the record and evidence, I therefore conclude:

1. Ms. Harvey is an employee of the District of Columbia subject to the enforcement provisions of the Standards of Conduct.

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2. Ms. Harvey used government time and resources for other than official business, or government approved or sponsored activities, when she compiled materials at the BOE office, for a personal purpose, a trip to Massachusetts.
3. Ms. Harvey directed a BOE staff person, during BOE business hours, to assist in the

compilation of materials for a personal purpose, a trip to Massachusetts.

4. Ms. Harvey permitted the use of a computer, printer and copier by the BOE staff person, during business hours, to assist in the compilation of materials for a personal purpose, a trip to Massachusetts.
5. Ms. Harvey violated the Standards of Conduct.
6. As the agency entrusted with enforcement of the Standards of Conduct against Ms. Harvey, OCF has the authority to issue a reprimand to Ms. Harvey.

**Recommendation**

I hereby recommend the Director to reprimand Wilma Harvey, Ward 1 Member and President of the Board of Education, for using government time and resources for other than official business, or government approved or sponsored activities, compiling materials at the BOE office, for a personal purpose, a trip to Massachusetts by Ms. Harvey; directing a BOE staff person to assist in the compilation of the materials, and permitting the use of a computer, printer and copier by a BOE staff person, all during business hours, to assist in the compilation of material, for a personal purpose, a trip to Massachusetts by Ms. Harvey.

I hereby further recommend the Director to admonish Wilma Harvey to avoid such conduct in the future.

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Date

Kathy S. Williams  
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that Wilma Harvey, Ward 1 Member and President of the Board of Education, be reprimanded for using government time and resources for other than official business, or government approved or sponsored activities, compiling materials at the BOE office, for a personal purpose, a trip to Massachusetts by Ms. Harvey; directing a BOE staff person to assist in the compilation of the materials, and permitting the use of a computer, printer and copier by a BOE staff person, all during business hours, to assist in the compilation of material, for a personal purpose, a trip to Massachusetts by Ms. Harvey.

IT IS FURTHER ORDERED that Wilma Harvey be admonished to avoid such conduct in the future.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

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Date

Cecily E. Collier-Montgomery  
Director

SERVICE OF ORDER

This is to certify that I have been served with a true copy of the foregoing Order.

Westy Byrd  
4525 Clark Place, N. W.  
Washington, D. C. 20007

Wilma Harvey  
1830 16<sup>th</sup> Street, N. W.  
No. 1  
Washington, D. C. 20009

Pursuant to 3 D.C.M.R. §3711.5 (1999), any fine imposed by the Director shall become effective on the 16<sup>th</sup> day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make check or money order payable to the D. C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, N. W., Washington, D. C., 20009.

